

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

MDL No. 1456

Civil Action: 01-CV-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO  
01-CV-12257-PBS and 01-CV-339

**AFFIDAVIT OF DAVID A. MOULES**

David A. Moules, being duly sworn, deposes and says:

1. I am Vice President, Strategic Pricing and Contract Management, for SmithKline Beecham Corporation, d/b/a GlaxoSmithKline ("GSK"), Three Franklin Plaza, Philadelphia, PA 19101. I am personally familiar with the matters set forth below.

2. The U.S. operating entities of Glaxo Wellcome Inc. ("GW") and SmithKline Beecham Corporation ("SB") merged in early 2001 to form GSK.

3. National drug price reporting publications such as First DataBank and Redbook have, since before the merger that formed GSK, reported both a "Wholesale Acquisition Cost" ("WAC," sometimes referred to as "Net Wholesale Price") and an "Average Wholesale Price" ("AWP") for prescription pharmaceuticals.

4. Prior to the merger that formed GSK, the AWP reported by both First DataBank and Redbook was generally 1.20 times the WAC for drugs made by GW ("GW heritage products"). Prior to the merger, the AWP reported by both First

DataBank and Redbook was generally 1.25 times the WAC for drugs made by SB ("SB heritage products").

5. Since shortly after the U.S. merger that formed GSK in early 2001, for all of its products (including GW heritage products and SB heritage products) GSK has reported only a WAC (and not an AWP) to the drug price reporting publications. In its communications to the drug price reporting publications and to customers, GSK specifically defines the WAC it reports as follows: "The listed price to wholesalers and warehousing chains, not including prompt pay, stocking or distribution allowances, or other discounts, rebates, or chargebacks. Listed price may not represent prices charged to other customers, including specialty distributors."

6. On January 9, 2002, GSK increased the WAC for a number of its products, including some GW heritage products and some SB heritage products. In doing so, GSK reported a new WAC for each of these products to First DataBank and Redbook.

7. Soon thereafter, GSK learned that First DataBank was reporting new AWP's for all of these products that were 1.25 times the WACs reported by GSK. Previously, for GW heritage products, the ratio between the WAC and the AWP reported by First DataBank had been 1.20.

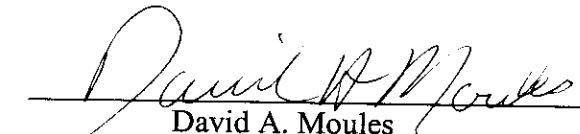
8. In light of this change by First DataBank to the ratio for GW heritage products between the WACs provided by GSK and the AWP's published by First DataBank, on March 1, 2002 I wrote a letter to the President of First DataBank inquiring as to the reasons for First DataBank's change in the ratio. That letter is attached as Attachment A hereto.

9. Neither I nor, to my knowledge, anyone else from GSK received a written response to my March 1, 2002 letter. I did, however, receive a phone call from a woman named Kay Morgan of First DataBank, who said she was calling to respond to my letter. Ms. Morgan said that there is no national definition of AWP and that AWPs are set by the individual price reporting services. She said that First DataBank had determined that, due to recent mergers in the prescription drug industry, many companies had products with different "multipliers" between their WACs and AWPs. She said that First DataBank wanted more uniformity with respect to the multipliers it was applying for each company's products, as well as for products made by different manufacturers. She recommended that if GSK received inquiries about First DataBank's change in the multiplier for any GSK product, GSK should respond by saying that GSK is not suggesting an AWP, and should direct such inquiries to First DataBank's customer support group.

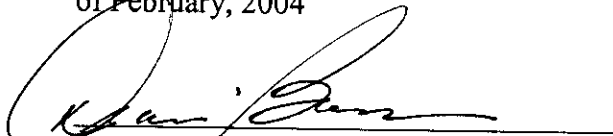
10. Later in 2002, I learned that one of the other major drug price reporting services -- Redbook -- was continuing to publish AWPs for GW heritage products that were 1.20 times the WACs reported by GSK. In addition, I subsequently learned that for many SB heritage products, Redbook had decided to *lower* the ratio between WAC and AWP from 1.25 to 1.20.

11. Thus, subsequent to the merger that formed GSK, First DataBank has been publishing AWPs that are 1.25 times the WAC that GSK reports to the price reporting services for many GSK products, and Redbook is publishing AWPs that are 1.20 times the WAC that GSK reports for those same products. These differing decisions concerning what AWPs to publish for GSK products, and what ratio should be applied to

the WACs reported by GSK in order to derive the published AWP, were made by the price reporting publications, not by GSK.

  
David A. Moules

Sworn before me this 15 day  
of February, 2004

  
Notary Public

Notarial Seal  
Dianna Branch, Notary Public  
Philadelphia, Philadelphia County  
My Commission Expires Mar. 21, 2005  
Member, Pennsylvania Association of Notaries